

REMARKS

The present amendment is submitted in response to the Office Action dated February 06, 2009, which set a three-month period for response, making this amendment due by May 06, 2009.

Claims 9-15 are pending in this application.

In the Office Action, Claims 9-15 were rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Izraelev (US Pat. No. 5,685,700).

Turning now to the merits, the applicant respectfully disagrees with the Examiner's rejection of Claim 9, and the claims dependent thereon, as being anticipated by the Izraelev reference. Nevertheless, and in an effort to better define the present invention over the cited prior art and to narrow the issues in this case, applicant has amended independent Claim 9. Amended independent Claim 9 now recites, with particularity, the novel feature of the upper and lower coverings of the rotor having blades being disposed therebetween. Amended Claim 9 now also recites the novel feature of the outer surfaces of the upper and lower coverings being smooth.

Furthermore, applicant notes that the rotor of the blood pump according to the present invention is open so that the blood is streaming through it. (See page 12 of the specification, "The blood enters on the intake side through an opening 126 into the rotor 14.") This feature of the present invention is distinguishable from the blood pump of the Izraelev reference (5,685,700), which has a rotor that is completely closed. In Izraelev, the blood flows only along the outside surfaces of the walls 29,30 of the rotor 20, as Fig. 2 clearly shows. Rotor

20 is formed by two cones coupled together forming a common center plate (see col. 4, lines 29-39). In this case, no blood can flow inside the rotor. According to column 6, lines 9-14, the rotor structure is smooth. Izraelev discloses that vanes can be employed on the structure of the rotor, but does not disclose the vanes being within it. Even if the vanes were inside the rotor they would serve no function because the blood is only flowing outside the rotor along the walls 29,30.

More importantly, the present invention, having covered blades, is uniquely distinguished over the Izraelev reference which has no blades at all, or in the very least, has uncovered blades. The uncovered blades would have an unwanted influence on the blood flow within the clearance between the rotor and the inner wall 12 of the housing 11. With blades on the rotor surface, it is definitely impossible to generate a pressure configuration, which stabilizes the rotor.

Because Claim 9 includes novel features that are not disclosed by the cited Izraelev reference, applicant believes that the rejection under Section 102 must be withdrawn, placing Claim 9 in a condition for allowance. The Applicant furthermore respectfully submits that Izraelev is not a proper reference under 35 USC 102 pursuant to the guidelines set forth in the last paragraph of MPEP section 2131, where it is stated that "a claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described, in a single prior art reference", and that "the identical invention must be shown in as complete detail as is contained in the ... claim".

Likewise, Claims 10-15, being dependent upon Claim 9, and share the allowable features, are also in a condition for allowance.

The application in its amended state is believed to be in condition for allowance. Action to this end is courteously solicited. Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael J. Striker', with a long horizontal flourish extending to the right.

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